

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00759/14**

**With
MA/050/00450/14**

Reserved on: 11.12.2018
Pronounced on: 14.12.2018

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Narayan Chandra Dey, Son of Late Gopal Chandra Dey, resident of Railway Quarter No. T/1(A), PO & PS- Simri, Baktiyarpur, District- Saharsa.

..... Applicant.

- By Advocate: - Mr. Gautam Saha

-Versus-

1. The Union of India through the Secretary, Railway Board, Rail Bhawan, Raisina Road, New Delhi.
2. The General Manager, East Central Railway, Hajipur, Vaishali.
3. Financial Advisor cum Chief Accounts Officer, East Central Railway, Hajipur, Vaishali.
4. Divisional Railway Manager, Samastipur Division, East Central Railway, Samastipur.
5. The Senior Divisional Personnel Officer, Samastipur Division, East Central Railway, Samastipur.
6. Senior Divisional Commercial Manager, Samastipur Division, East Central Railway, Samastipur.
7. Divisional Commercial Inspector, Samastipur Division, Samastipur.
8. Station Manager, Simri, Baktiyarpur.

..... Respondents.

- By Advocate(s): - Mr. S.K. Griyaghey

O R D E R

Per Dinesh Sharma, A.M.:-The request of the applicant is that he has been shouldering and discharging the duties and responsibilities of the post of Commercial Supervisor at Simri, Baktiyarpur continuously on

regular basis from 31.12.2003 till the date of filing the OA, but he has not been granted officiating pay for the same. This, according to him, is in violation of Railway Department's directions at RBE No. 137 of 2007 (Annexure A/2 of OA) and RBE No. 240/2001 (Annexure A/4 of OA). He was given charge of this post after the retirement of the then incumbent Shri N.K.P.Gupta which is evident by the list of items handed over to him as evidenced by the copies of charge paper annexed at Annexure A/1 of the OA. The applicant has also filed an MA for condonation of delay. He has alleged that he has been making representation and his request should not be rejected on this technical ground of delay in the light of various rulings of the Hon'ble Apex Court (**Union of India &Ors. Vs. Tarsem Lal** reported in AISLJ [1] 371, **G.P. Doval Vs. Chief Secy., Govt. of UP** reported in 1984[2] SLR 555 and the **Madras Port Trust Vs. Hymanshu International** reported in SCSR Vol. II 629]

2. The respondents have denied the claim of the applicant. They have alleged that the applicant is relying on the list dated 30.12.2003 (Annexure A/1) which is merely a list of items handed over to the applicant by the retiring employee Shri N.K.P. Gupta. There has never been an order by a competent authority giving him charge of the post of Commercial Supervisor. He has also never represented before the administration for officiating pay and thus his claim after ten years even if any is hopelessly barred by limitation.

3. After going through the pleadings and hearing the learned counsel for both the parties, it is clear that though the fact of applicant

looking after the work that was handed over to him after the retirement of Shri N.K.P. Gupta is not denied by the respondents, they have not accepted his claim since there was never any order by any competent authority to give him the charge of that post. During the course of arguments, the learned counsel for the respondents made it clear that the post of Commercial Supervisor is two ranks higher than the post of Commercial Clerk which the applicant was handling. In the absence of any order formally putting him in charge of a superior post there cannot be any claim for granting officiating pay. The papers cited by the applicant are clearly not the order of competent authorities authorizing him to officiate as Commercial Supervisor. The respondents also could not explain why no one else was posted for almost 10 years after the retirement of Shri N.K. P. Gupta for the post of Commercial Supervisor. In the absence of any concrete evidence produced by the respondents to show that the post was either downgraded or kept unfilled because of lack of requirement of a high-level officer on that post, we consider it as a duty of the respondents to respond to the request of the applicant even though he might have made this representation very late. We, therefore, direct the respondents to consider the representation made by the applicant at Annexure A/8 and Annexure A/9 and pass a reasoned and speaking order within a period of three months of this order in terms of their own rules and regulations. The OA and MA are accordingly disposed of. No order as to costs.

**[Dinesh Sharma]
Administrative Member
Sr.k.**

**[Jayesh V. Bhairavia]
Judicial Member**